

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Chanan Berkovits	Team: Team # 4	CCRB Case #: 200912841	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Tuesday, 08/11/2009 12:30 AM, Thursday, 08/13/2009 12:00 AM	Location of Incident: § 87(2)(b)	Precinct: 42	18 Mo. SOL 2/11/2011	EO SOL 2/11/2011	
Date/Time CV Reported Thu, 08/13/2009 12:00 AM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Wed, 08/19/2009 11:21 AM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. POM Wilson Verdesoto	26997	937685	BX/Q IM
2. POM Joeche Ramirez	05509	944917	BX/Q IM
3. An officer			HBX/QIM

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Frank Amill	27429	941345	BX/Q IM
2. POM Gelphin Gomez	04967	944600	HBX/QIM
3. POM Darell Dennison	10985	943159	HBX/QIM

Officer(s)	Allegation	Investigator Recommendation
A.POM Joeche Ramirez	Abuse: On August 11, 2009, PO Joeche Ramirez stopped § 87(2)(b)	§ 87(2)(b)
B.POM Joeche Ramirez	Abuse: On August 11, 2009, PO Joeche Ramirez frisked § 87(2)(b)	§ 87(2)(b)
C. An officer	Discourtesy: On August 13, 2009, an officer spoke rudely to § 87(2)(b)	§ 87(2)(b)
D.POM Wilson Verdesoto	Force: On August 13, 2009, PO Wilson Verdesoto used physical force against § 87(2)(b)	§ 87(2)(b)

Case Summary

§ 87(2)(b) and § 87(2)(b) filed a complaint with Internal Affairs on August 13, 2009 generating log number 09-39815 (encl. 4A-4B). This complaint was received by the CCRB on August 19, 2009 (encl. 5A-5B).

On August 11, 2009, PO Joeche Ramirez stopped § 87(2)(b). On August 13, 2009, PO Ramirez and PO Wilson Verdesoto arrested § 87(2)(b). The following allegations resulted:

- **Allegation A – Abuse of Authority:** On August 11, 2009, PO Joeche Ramirez stopped § 87(2)(b).
- **Allegation B – Abuse of Authority:** On August 11, 2009, PO Joeche Ramirez frisked § 87(2)(b) § 87(2)(g).
- **Allegation C – Discourtesy:** On August 13, 2009, an officer spoke rudely to § 87(2)(b) § 87(2)(g).
- **Allegation D – Force:** On August 13, 2009, PO Wilson Verdesoto used physical force against § 87(2)(b) § 87(2)(g).

Results of Investigation

Civilian Statements

Complainant/Victim: § 87(2)(b)

- § 87(2)(b) -old black male, height 6'1", weight 175 pounds, black hair, brown eyes.

§ 87(2)(b) provided a brief telephone statement on September 9, 2009 (encl. § 87(2)(b)). § 87(2)(b) was interviewed at the CCRB on October 1, 2009 (encl. 10A-10F). On August 11, 2009, at approximately 12:30 a.m., § 87(2)(b) was walking past § 87(2)(b) in the Bronx, when a patrol car stopped next to him, and PO Joeche Ramirez and PO Darell Dennison exited the vehicle. PO Ramirez said to § 87(2)(b) "Hey, buddy, come here; let me holler at you." § 87(2)(b) asked the officers what they wanted and told them that he had identification. PO Ramirez felt around § 87(2)(b)'s ankles and waist. PO Ramirez asked § 87(2)(b) where he was coming from, and § 87(2)(b) told him he had come from Webster Avenue. PO Ramirez asked § 87(2)(b) "What's going on out there? There's a lot of shooting out there, a lot of gunplay. Who's doing it? Where they at?" § 87(2)(b) told PO Ramirez that he did not know what he was talking about. PO Ramirez asked § 87(2)(b) approximately 30-50 times where people with guns were. § 87(2)(b) continued to tell PO Ramirez that he did not know. PO Dennison asked § 87(2)(b) for his identification, and § 87(2)(b) gave it to him. PO Ramirez then patted down the outside of all the pockets on § 87(2)(b)'s jeans.

On August 13, 2009, at approximately 9:12 PM, § 87(2)(b) was walking in the same location. § 87(2)(b) was carrying an opaque plastic bag containing a pair of sneakers in a shoe box. A patrol car containing PO Ramirez, PO Frank Amill, and PO Wilson Verdesoto pulled up next to him. PO Amill said to § 87(2)(b) "Hey, little homey, what's up?" § 87(2)(b) told the officers to search his bag even though they did not ask to do so. PO Amill and PO

Ramirez got out of the patrol car. PO Ramirez took the bag from § 87(2)(b) and said, "We know you got something in there, we got you this time." § 87(2)(b) had two small bags of marijuana in his right front pants pocket, and he dropped them on the ground.

While PO Amill and PO Ramirez searched § 87(2)(b)'s bag, PO Verdesoto stepped out of the patrol car. He saw the marijuana bags on the ground and asked what they were. § 87(2)(b) admitted the bags were his, and PO Verdesoto handcuffed him. § 87(2)(b) was facing the patrol car, and all three officers moved behind him. § 87(2)(b) said regarding his shoe bag, "Ain't nothing in there, just hurry up and do this. I got caught with weed man; don't try to put no crack in there." One of the officers told § 87(2)(b) "Shut the fuck up." § 87(2)(b) could not see who this officer was because they were all behind him. PO Verdesoto held the handcuffs by the chain and started shaking the cuffs. PO Verdesoto tripped § 87(2)(b) § 87(2)(b)'s elbow, knees, and head stuck the pavement. When his head hit the pavement, § 87(2)(b) passed out. A few seconds later, when § 87(2)(b) regained consciousness, PO Verdesoto was on top of him. PO Verdesoto had placed his knee in the middle of § 87(2)(b)'s upper back. § 87(2)(b) sustained a scrape on his right elbow and a cut over his right eyebrow which was bleeding.

A group of approximately 6-7 people had gathered. § 87(2)(b)'s cousin, § 87(2)(b) and his aunt, § 87(2)(b) were part of this crowd. The officers placed § 87(2)(b) in a patrol car.

Complainant/Witness: § 87(2)(b)

§ 87(2)(b) provided a brief telephone statement on August 25, 2009 (encl. 8). On August 13, 2009, at approximately 9:12 PM, § 87(2)(b) heard people yelling outside her home located at § 87(2)(b) in the Bronx. § 87(2)(b) crossed the street to see what was happening and saw three uniformed police officers interacting with § 87(2)(b) near a patrol car. § 87(2)(b) was in handcuffs and his head was bleeding. § 87(2)(b) said that he was dizzy. The officers were looking through § 87(2)(b)'s shoe box while asking, "You got guns?" The officers continued to grab § 87(2)(b) and twist his arm.

Witness: § 87(2)(b)

§ 87(2)(b) provided a brief telephone statement on December 10, 2009 (encl. 11). § 87(2)(b) arrived at the incident location after all of the allegations had taken place.

NYPD Statements:

Subject Officer: PO JOECHE RAMIREZ

- § 87(2)(b) -old Hispanic male, height 5'7" tall, weight 150 pounds, black hair, brown eyes, speech impediment.
- On August 11, 2009: Assigned to the Housing Bureau Bronx Queens Impact Response Team foot patrol, worked in uniform from 6:00 p.m. to 2:35 a.m. with PO Dennison and PO Gomez.
- On August 13, 2009: Assigned to the Housing Bureau Bronx Queens Impact Response Team patrolling the Morris Houses, worked in uniform from 6:00 p.m. to 2:35 a.m. with PO Verdesoto and PO Amill in patrol car

Memo Book Entry

PO Ramirez's memo book entries from August 11, 2009 record that at 12:30 a.m., he stopped § 87(2)(b) in front of § 87(2)(b). At 12:35 a.m., PO Ramirez prepared a stop and frisk report for criminal possession of a weapon (encl. 19A-19G).

CCRB Testimony

PO Ramirez was interviewed at the CCRB on February 17, 2010 (encl. 20A-20C). PO Ramirez had no independent recollection of interacting with § 87(2)(b) on August 11, 2009. PO Ramirez did not recall feeling the outside of § 87(2)(b)'s waistband, his ankles or any part of his clothing on that date. He did not recall seeing any other officers do so on that date.

On August 13, 2009, at approximately 9:14 pm., PO Ramirez, PO Verdesoto and PO Amill were driving down Washington Avenue in the Bronx when they observed § 87(2)(b) walking near § 87(2)(b). PO Verdesoto observed § 87(2)(b) toss something into the street. The officers exited their car, and PO Verdesoto looked at the item which § 87(2)(b) had tossed on the ground and determined that it was several plastic bags of marijuana.

Without speaking, PO Verdesoto approached § 87(2)(b) and placed a handcuff on one of his wrists. § 87(2)(b) attempted to pull his handcuffed arm away from PO Verdesoto, but PO Verdesoto was holding on to the handcuffs. § 87(2)(b) attempted to flee. § 87(2)(b) was less than five feet away from PO Verdesoto when PO Verdesoto tackled him. Both PO Verdesoto and § 87(2)(b) fell to the ground. When he fell, § 87(2)(b)'s face struck the ground. § 87(2)(b) sustained a cut on his face as a result of falling to the ground. Once § 87(2)(b) was on the ground, the officers handcuffed him.

PO Ramirez searched § 87(2)(b)'s bag and determined that it contained sneakers. Neither PO Ramirez nor the other officers searched § 87(2)(b)'s bag prior to when he was arrested. PO Ramirez never told § 87(2)(b) "Shut the fuck up."

Subject Officer: PO WILSON VERDESOTO

- § 87(2)(b) -old Hispanic male, height 5'10" tall, weight 240 pounds, brown hair, brown eyes.
- On August 13, 2009: Assigned to the Housing Bureau Bronx Queens Impact Response Team patrolling the Morris Houses, worked in uniform from 6:00 p.m. to 2:35 a.m. with PO Ramirez and PO Amill in patrol car 9251

PO Verdesoto was interviewed at the CCRB on February 24, 2010 (encl. 17A-17C). § 87(2)(g)

(g)

§ 87(2)(g) When they exited the car, PO Ramirez and PO Amill were going to ask § 87(2)(b) where he was going, what he was doing, and why he seemed so nervous, but § 87(2)(b) threw the marijuana on the ground as they approached and before they asked him anything.

PO Verdesoto confirmed that § 87(2)(b) attempted to flee and he tackled him. PO Verdesoto did not recall if he placed his knee on § 87(2)(b)'s back. PO Verdesoto never told § 87(2)(b) to "shut the fuck up."

Witness Officer: PO DARELL DENNISON

- § 87(2)(b) -old Asian male, height 5'8" tall, weight 165 pounds, brown hair, brown eyes.
- On August 11, 2009: Assigned to the Housing Bureau Bronx Queens Impact Response Team footpost 8, worked in uniform from 6:00 p.m. to 2:35 a.m. with PO Gomez and PO Ramirez.

Memo Book Entry

PO Dennison's memo book entries from August 11, 2009 record that at 12:30 a.m., he stopped § 87(2)(b) in front of § 87(2)(b). At 12:35 a.m., PO Ramirez prepared a stop and frisk report for criminal possession of a weapon (encl. 25A-25C).

CCRB Testimony

PO Dennison was interviewed at the CCRB on May 17, 2010 (encl. 26A-26B). PO Dennison had no recollection the August 11, 2009 incident.

Witness Officer: PO GELPHIN GOMEZ

- § 87(2)(b) -old Hispanic male, height 5'8" tall, weight 170 pounds, black hair, brown eyes.
- On August 11, 2009: Assigned to the Housing Bureau Bronx Queens Impact Response Team patrolling the Morrishenya Houses, worked in uniform from 6:00 p.m. to 10:05 p.m. with PO Ramirez.

PO Gomez was interviewed at the CCRB on May 6, 2010 (encl. 24A-24B). On August 11, 2009, PO Gomez took lost time and ended his tour early. Consequently, he was not present when § 87(2)(b) was stopped.

Witness Officer: PO FRANK AMILL

- § 87(2)(b) -old Hispanic male, height 5'11" tall, weight 225 pounds, black hair, brown eyes.
- On August 13, 2009: Assigned to the Housing Bureau Bronx Queens Impact Response Team footpost 12, worked in uniform from 3:00 p.m. to 11:35 p.m. with PO Verdesoto.

PO Amill was interviewed at the CCRB on March 16, 2010 (encl. 22A-22B). PO Amill had no recollection of this incident.

UF49

The UF49 prepared by Capt. Ikone (encl. 27A-27C) provides an account of the incident from August 13, 2009 as reported by the officers to Sgt. Javier Valentin. § 87(2)(g)

Capt. Ikone interviewed § 87(2)(b) § 87(2)(g) § 87(2)(b) did not mention

having marijuana and claimed that the officers had handcuffed him for no reason. He stated that he and PO Verdesoto both fell to the ground.

Ambulance Call Report

The ambulance call report prepared for § 87(2)(b) (encl. 28E-28G) records that § 87(2)(b) told emergency medical technicians that he fell to the ground while running and hit his head on the ground.

Medical Records

§ 87(2)(b) records (encl. 28A-28DDD) from August 13, 2010 show that § 87(2)(b) sustained a laceration above his right eyebrow sustained when officers knocked him down after he had been handcuffed. He received two sutures.

NYPD Document

PSA7 Stop and Frisk Log

The stop and frisk log from August 11, 2009 (encl. 31A-31B) lists several stop and frisk reports prepared by officers from the Housing Bureau Bronx Queens Impact Response Team. It does not list any reports prepared for § 87(2)(b)

Summons/Arrest for Incident and Disposition

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Status of Civil Proceedings

- § 87(2)(b) filed a Notice of Claim with the City of New York on § 87(2)(b), claiming personal injuries and punitive damages and seeking \$4 million as redress (encl. 37A-37B).

Civilian Criminal History

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Civilian CCRB History

- This is the first CCRB complaint filed by § 87(2)(b) (encl. 3).

Subject Officers CCRB History

- PO Ramirez has been a member of the service for three years and there are no substantiated CCRB allegations against him (encl. 2A).

- PO Verdesoto has been a member of the service for five years and there are no substantiated CCRB allegations against him (encl. 2B).

Conclusion

Identification of Subject Officers

- PO Ramirez's memo book records that he stopped § 87(2)(b) on August 11, 2009. He acknowledged interacting with § 87(2)(b) on August 13, 2009.
- PO Verdesoto acknowledged interacting with § 87(2)(b) on August 13, 2009.
- § 87(2)(b) alleged that on August 13, 2009, an officer he could not see told him, "Shut the fuck up." All three officers present during this incident denied making this remark or using any profanity during this incident. § 87(2)(g)

Investigative Findings and Recommendations

Allegations Not Pleaded

§ 87(2)(g)

[REDACTED]

Allegation A: On August 11, 2009, PO Joeche Ramirez stopped § 87(2)(b)

Allegation B: On August 11, 2009, PO Joeche Ramirez frisked § 87(2)(b)

By all accounts, PO Ramirez stopped § 87(2)(b) on August 11, 2009. PO Ramirez could not recall the reasons leading up to that stop. § 87(2)(g)

§ 87(2)(b) stated that during the stop, PO Ramirez frisked him. PO Ramirez did not recall frisking § 87(2)(b) § 87(2)(g)

Allegation C: On August 13, 2009, an officer spoke rudely to § 87(2)(b)

§ 87(2)(g)

[REDACTED]

Allegation D: On August 13, 2009, PO Wilson Verdesoto used physical force against

§ 87(2)(b)

§ 87(2)(b) stated that while he was handcuffed, PO Verdesoto tripped him. PO Verdesoto stated that after he placed handcuffs on one of § 87(2)(b)'s wrists, § 87(2)(b)

attempted to flee. PO Verdesoto prevented § 87(2)(b)'s escape by tackling him. PO Ramirez corroborated this account. According to the ambulance call report prepared for § 87(2)(b), § 87(2)(b) stated that he fell down while running. § 87(2)(g)

Patrol Guide procedure 203-11 (encl. 1A-1B) states that officers must use “only that amount of force necessary... to effect an arrest.” § 87(2)(g)

Team: 4

Investigator: _____	Chanan Berkovits	August 16, 2010
Signature	Print	Date

Supervisor: _____	_____	_____
Title/Signature	Print	Date

Reviewer: _____	_____	_____
Title/Signature	Print	Date

Reviewer: _____	_____	_____
Title/Signature	Print	Date